

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN JIM SHOCKLEY**, on January 29, 2001 at 8:00 A.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Jim Shockley, Chairman (R)  
Rep. Paul Clark, Vice Chairman (D)  
Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. Darrel Adams (R)  
Rep. Gilda Clancy (R)  
Rep. Aubyn A. Curtiss (R)  
Rep. Bill Eggers (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Linda Holden (R)  
Rep. Joan Hurdle (D)  
Rep. Jeff Mangan (D)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. Ken Peterson (R)  
Rep. Diane Rice (R)  
Rep. Bill Thomas (R)  
Rep. Merlin Wolery (R)  
Rep. Cindy Younkin (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Branch  
Mary Lou Schmitz, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: **HB 323 - 1-22-01**  
**HB 329 - 1-22-01**

Executive Action: **HB 329 - DP**  
**HB 189 - DPAA**

**HEARING ON HB 323**

**Sponsor:** Rep. Tom Facey, HD 67, Missoula said this Bill involves equal protection under the law. It's the basic concept or foundation of our legal system. HB 323 seeks to make clear that every member of our society will all have the same protection of our laws. The Montana Supreme Court has affirmed that protection but there is a flaw in the code that should be corrected. Montana Code 45-5-505 states that consenting adults engaged in private, same-gender, non-commercial sex is illegal. The Montana Supreme Court ruled in July, 1997, this section of the code is unconstitutional. HB 323 will remove from the Code the sections that the Supreme Court has stated are unconstitutional.

**Proponents:** Karl Olson, Helena, PRIDE **EXHIBIT**(juh23a01)

Jeremy Stockstad, Bozeman, **EXHIBIT**(juh23a02)

Linda Gryczan, Clancy

Holly Franz, Helena, Montana Women's Law Section

Pam Bucy, Assistant Attorney General

Daniel Casey, Montana Human Rights Network

Beth Brenneman, Legal Director, Montana ACLU

Rebecca Moog, Montana Women's Lobby

**Opponents:** Julie Millam, Executive Director, Christian Coalition of Montana.

Rep. Verdell Jackson, HD 79, Kalispell

*{Tape : 1; Side : A; Approx. Time Counter : 0 - 30}*

*{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 9.4}*

Dallas Erickson, Representing, Montana Citizens for Decency Through Law. **EXHIBIT**(juh23a03) **EXHIBIT**(juh23a04)

Dr. Wm. Wise, Clancy

Harris Himes, Pastor and Attorney, Hamilton

Shannon Bennett, Hamilton

Larry Chambers, Helena

Questions from Committee Members and Responses: Reps. Gutsche, Newman, Mangan, Gallus, Hurdle, Laszloffy, Harris, Peterson, Curtiss, Adams, Clark, Shockley to Ms. Franz, Rep. Facey, Mr. Himes, Mr. Olson, Dr. Wise, Ms. Bucy, Ms. Millam.

Rep. Thomas requested Rep. Facey, Sponsor, to attach a family impact statement to this Bill.

*{Tape : 1; Side : B; Approx. Time Counter : 9.4 - 28.6}*

*{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 29.4}*

*{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 12.2}*

Closing by Sponsor: Rep. Facey closed the Hearing on HB 323.

*{Tape : 2; Side : B; Approx. Time Counter : 12.2 - 19.0}*

#### HEARING ON HB 329

Sponsor: Rep. Roger Somerville, HD 78, Kalispell said this Bill is a housekeeping bill and will require registration of anyone convicted of sexual crimes, or imprisoned for sexual crimes, or under supervision for sexual crimes in any state, country or federal agency, on or after July 1, 1989. This also includes Tribal because they are considered federal agencies.

The same thing will apply to violent offenders but has a later date. The language applies on October 1, 1995.

Proponents: Pam Bucy, Assistant Attorney General,  
**EXHIBIT** (juh23a05)

Dave Ohler, Chief Legal Counsel, Department of Corrections.

Tom Corbett, Deputy Chief, U.S. Probation

Opponents: None

Questions from Committee Members and Responses: Reps. Noennig, Adams to Ms. Bucy, Mr. Ohler, Mr. MacMaster, Rep. Somerville.

*{Tape : 2; Side : B; Approx. Time Counter : 18.6 - 29.0}*

Closing by Sponsor: Rep. Somerville closed the Hearing on HB 329

*{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 6.6}*

EXECUTIVE ACTION ON HB 329

Motion: REP. YOUNKIN moved that HB 329 DO PASS. #1

Discussion: Reps. Noennig, Harris, Hurdle, Clark, Newman, Laszloffy, Wolery to Mr. MacMaster for explanation.

Vote: Motion #1 carried 18-2 with Reps. Laszloffy and Harris voting no.

EXECUTIVE ACTION ON HB 189

Motion: REP. EGGERS moved that HB 189 DO PASS. #2

Discussion: Reps. Eggers, **EXHIBIT**(juh23a06)

*{Tape : 3; Side : A; Approx. Time Counter : 6.6 - 29.5}*

Motion: REP. EGGERS moved that HB 189 BE AMENDED to extend the effective date to September 1. #3

Discussion: Rep. Peterson.

Motion: REP. EGGERS moved that HB 189 BE AMENDED. HB018901 #4

Motion/Vote: REP. EGGERS moved a substitute amendment that the effective date will be October 1, 2001. #5. Motion carried unanimously. 20-0.

Discussion: Reps. Eggers, Newman, Mangan, Peterson, Hurdle, Clancy, Wolery, Laszloffy, Shockley.

Vote: Motion #4 carried 12-8 with Reps. Clark, Adams, Clancy, Curtiss, Holden, Rice, Thomas and Wolery voting no.

Motion: REP. MANGAN moved that HB 189 DO PASS AS AMENDED. #6

Motion: REP. LASZLOFFY moved that HB 189 BE AMENDED. #7.  
**EXHIBIT**(juh23a07)

Discussion: Reps. Noennig, Eggers, Rice, Shockley, Harris, Mangan, Clancy, Peterson, Newman, Hurdle.

*{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 28.2}*

Motion/Vote: REP. NOENNIG moved that HB 189 BE AMENDED, #8 conceptually to address subsection 1, "final disposition the offense one is charged". Motion failed 4-16 with Reps. Adams, Hurdle, Noennig and Rice voting yes.

*{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 28.4}*

*{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 1.6}*

Motion/Vote: REP. NOENNIG moved that HB 189 BE AMENDED, lines 16 and 17 changed to read "identifying the race, gender or age, of each individual stopped". #9 Motion carried 11-8 with Reps. Clark, Adams, Curtiss, Eggers, Gallus, Gutsche, Mangan and Peterson voting no.

Motion/Vote: REP. MANGAN moved that HB 189 DO PASS AS AMENDED. #10. Motion carried 12-8 with Reps. Laszloffy, Adams, Curtiss, Holden, Noennig, Rice, Thomas and Wolery voting no.

*{Tape : 4; Side : B; Approx. Time Counter : 1.6 - 12.1}*

**ADJOURNMENT**

Adjournment: 11:40 A.M.

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REP. JIM SHOCKLEY, Chairman

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MARY LOU SCHMITZ, Secretary

JS/MS

**EXHIBIT** (juh23aad)